IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 10187 of 2005

DATED: 23.4.2007

Between:

B.L.Narasamma & another petitioners

And

State of A.P.
Rep by its Principal Secretary to Government
School Education Department,
Secretariat Buildings, Saifabad, Hyderabad & ors
Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 10187 OF 2005

ORAL ORDER:

This writ petition is filed questioning the action of the 3rd respondent in not approving the selection of the petitioners as Secondary Grade Teacher on par with others and for a consequential direction to approve the selection of the petitioners with all consequential benefits.

The facts in brief as per the averments made in the affidavit filed in support of the writ petition are as follows;

The 5th respondent is an aided institution and it sought permission from the 3rd respondent to fill up several aided posts including 5 SGT posts. The 3rd respondent vide proceedings dated 6.9.2003 granted permission to fill up the teaching and non teaching posts. After obtaining the permission, the 5th respondent issued a notification inviting applications from the eligible candidates. The petitioners claim that they are eligible for appointment as Secondary Grade Teachers and attended the written test and oral interview on 6.1.2004 and were selected by the selection committee. It is alleged that the selection committee recommended their names and proposals were sent to 3rd respondent for approval. The 3rd respondent on consideration of the matter, approved the selection of 9 candidates

excluding the petitioners herein. The petitioners allege that they are fully qualified and eligible for appointment and the action of the 3rd respondent in not approving their selection without assigning any reasons is illegal. Hence, the present writ petition.

This Court by order dated 21.7.2005 admitted the writ petition and issued notices to the respondents. Thereafter interim directions were granted by order dated 2.1.2006 in W.P.M.P. No. 13213 of 2005. The 3rd respondent filed a counter affidavit along with a petition to vacate the interim directions dated 2.1.2006.

In the counter affidavit *inter-alia* it is stated that three posts at point number 9, 11 and 12 are meant for Open competition and the same have to be filled in as per merit only but not on community basis. It is stated that the second petitioner was selected as against a post reserved for B.C (B) (women) which is irregular inasmuch as she has got 86.5 % i.e., more marks than the first petitioner who was selected under the category of O.C (women). It is thus contended that the second petitioner has to be selected against the O.C. (women) post and a fresh candidate has to be considered against the post meant for B.C (B) (women) and the selection of the first petitioner is irregular. The relevant portion of the counter reads as under;

> " In this connection it is submitted that as per the orders issued in G.O.Ms.No. 65 GAD (Services-D) Department dated 15.2.1997 under rule 2 (d) read with rule 22 of A.P. State and Subordinate Service Rules 1996 the claims of members of the Scheduled Caste, Scheduled Tribes, Backward Classes, Women & the Physically Handicapped Persons or the Ex-servicemen as the case may be, shall also be considered for the remaining appointments which shall be filled on the basis of open competition, the number of appointments reserved for the category shall in no way be effected during the period the reservation for the category is in force.
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> From the above, it is clear that the posts meant for open competition have to be filled in as per merit only but not on community basis. In the 5th respondent school 2 posts of SGTs were permitted to be filled in open competition (point Nos 9 & 11) and

one post in open competition with women candidate (point no.12). For selection of women candidate in open competition the selection committee has selected the candidate who got 85.8 % marks whereas B.C (B) (W) post the Staff Selection Committee including two departmental nominees i.e., Deputy Educational Officers, Sattenapalli and Guntur have selected a candidate who got 86.5 % marks which is irregular. As per the above, Smt P.Usha Rani (2nd petitioner) has to be fitted in OC(W) (Point no.12) and a fresh candidate has to be selected in the place of Smt B.L Narasamma (1st petitioner) for B.C (B) (W) (point no. 10/100) post.

Keeping in view of the above defects, the District Educational officer, Guntur (4th respondent) has been requested by the 3rd respondent to examine the proposal in detail and submit fresh proposals duly consulting with the departmental nominees, for approval of selection of Smt P Usha Rani (2nd petitioner) for the post of SGT along with the candidates who has to be selected in the place of 1st petitioner against B.C (B) (W) (10/100 category) in proc Rc NO. 3451/B1/2003-3 dt 4-8-2004 (copy enclosed) duly extending the copies of the same to the 5th respondent as well as Departmental nominees i.e. Deputy Educational Officer, Sattenpalli and Guntur and also remineded the respondent 4 on 25-10-2004, 10-1-2005 and 5.5.2005 and required report is awaited from the respondent 4, i.e., District Educational Officer, Guntur."

The learned Government Pleader for Education submitted that the management of the school addressed a letter dated 21.4.2007 to the Regional Joint Director of School Education, Guntur to the effect that it has no objection for taking action in terms of letter dated 4.8.2004 and appointing the second petitioner in O.C. (W) roster point 12/1000 and considering the case of a fresh candidate i.e., M.Vijaya Lakshmi who got 64.6 % marks in B.C (B) (women) category at roster point no.10/100.

It is thus contended that the first petitioner is not eligible for appointment as against a post in O.C (women) category at roster point no.12/100 and in the said post the second petitioner eligible to be appointed.

At this stage of the arguments, learned counsel for petitioner submitted that the writ petition may be disposed of directing the 3rd respondent to pass appropriate orders appointing the second

petitioner against roster point 12/100 reserved for B.C. (B) (women).

Heard the learned counsel for petitioner and learned Government Pleader for Education and perused the material available on record.

The first petitioner has secured 85.8 % and the second petitioner has secured 86.5 % marks in the written test and interview. The selection committee submitted proposals for selection of the first petitioner as against the post meant for O.C (women) and the second petitioner as against the post meant for B.C (B) (women) post. Since the first petitioner has secured less marks than that of the second respondent, she cannot be appointed under O.C (women) roster point no.12/100. Hence, the writ petition as against the first petitioner is dismissed.

Now coming to the case of the second respondent, since the matter is pending consideration before the 3rd respondent-Regional Joint Collector, I deem it appropriate to dispose of the writ petition with the following direction.

The 3rd respondent is directed to take appropriate decision on the recommendations made by the District Educational Officer vide proceedings Rc No. 16865/B1/2002 dated 21.4.2007 and pass appropriate orders in accordance with law, expeditiously.

Subject to above, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

DATE: 23.4.2007
TVK

THE HON'BLE MR JUSTICE N.V. RAMANA

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